

Message Text

LIMITED OFFICIAL USE

PAGE 01 JAKART 09044 070837Z
ACTION TRSE-00

INFO OCT-01 EA-07 ISO-00 L-03 EB-07 COME-00 SS-15
SP-02 OMB-01 OES-07 EUR-12 /055 W
-----083148 070921Z /17
R 070730Z JUL 77
FM AMEMBASSY JAKARTA
TO SECSTATE WASHDC 2303
INFO AMCONSUL MEDAN
AMCONSUL SURABAYA

LIMITED OFFICIAL USE JAKARTA 09044

E.O. 11652: N/A
TAGS: EFIN, ID
SUBJECT: PROPOSED US-INDONESIAN INCOME TAX TREATY

REF : STATE 147621 AND PREVIOUS

1. SUMMARY: GOI SEEMS PLEASED AT PROSPECT OF FORWARD MOVEMENT ON US-RI DOUBLE TAX TREATY, BUT SIGNIFICANT PROBLEMS STILL MUST BE OVERCOME. PERHAPS THORNIEST OF THESE IS DEFINITION OF INDONESIA, WITH GOI HAVING NO INTEREST IN REFTEL PROPOSAL BUT HAVING COME UP WITH A NEW VERSION OF ITS OWN. ANOTHER PROBLEM REVOLVES AROUND US INSISTANCE ON NONDISCRIMINATION LANGUAGE WHICH IS UNACCEPTABLE TO GOI. POTENTIAL THIRD PROBLEM AREA IS THAT OF US OIL PAYMENTS TO GOI. END SUMMARY.

2. BRIEF SURGE OF ELATION WE EXPERIENCED UPON RECEIPT OF REFTEL CONTAINING OFFER WE HOPED MIGHT NUDGE FORWARD THIS LONG-STALLED ISSUE DISSIPATED ALMOST AS SOON AS DISCUSSION OF ISSUE WITH GOI REPS BEGAN. EMBOFF MET JUNE 30 WITH ACHMAD DIN WHO WAS PRINCIPAL GOI NEGOTIATOR DURING 1974-75 PERIOD WHEN DISCUSSION OF US-RI TREATY WAS MOST INTENSIVE. HE WAS THEN DIRECTOR OF LEGAL AFFAIRS IN DIRGEN
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 JAKART 09044 070837Z

FOR TAXATION OF DEPARTMENT OF FINANCE, BUT HAS SINCE BEEN PROMOTED TO SECRETARY (DEPUTY) TO THE DIRECTOR GENERAL. HE HAS BEEN REPLACED BY MR. KOSIN, WHO APPARENTLY WILL NOW BE EMBASSY'S PRINCIPAL CONTACT ON THIS MATTER. A TECHNICAL EXPERT FROM THE DIRECTORATE, MR. AMIR SETIA, ALSO SAT IN.

3. WHEN EMBOFF INFORMED DIN OF CHANGES PROPOSED REFTEL, I.E., THAT ARTICLE 3(1)(A) AND (B) BE MODIFIED AS STATED AND THAT "AD ARTICLE 3" BE DELETED, DIN SMILED AND SAID THIS WAS NOT AT ALL A NEW PROPOSAL. HE TERMED IT THE "OLDEST OF THE OLD," SAYING THAT IT HAD BEEN THE FIRST PROPOSAL THE US HAD MADE. IN THE MEANTIME THE GOI TOO HAS COME UP WITH NEW TERMINOLOGY WHICH IT WOULD LIKE US TO CONSIDER. NEW RI VERSION OF ARTICLE 3(1)(B) AS FOLLOWS:

BEGIN TEXT/ THE TERM INDONESIA COMPRISES THE TERRITORY OF THE REPUBLIC OF INDONESIA AS DEFINED IN ITS LAWS AND PARTS OF THE CONTINENTAL SHELF AND ADJACENT SEAS, OVER WHICH THE REPUBLIC OF INDONESIA HAS SOVEREIGNTY, SOVEREIGN RIGHTS OR OTHER RIGHTS IN ACCORDANCE WITH INTARNATIONAL LAW. END TEXT. GOI OFFICIALS SAID SEVERAL COUNTRIES, INCLUDING CANADA, U.K., FRANCE AND FRG, WITH WHOM GOI HAS RECENTLY CONCLUDED, OR IS IN THE PROCESS OF CONCLUDING, DOUBLE TAX TREATIES, HAVE ACCEPTED THIS WORDING. FRG HAS INSISTED ON A SIDE LETTER, TO EFFECT THAT THE ABOVE DEFINITION OF INDONESIA IS "WITHOUT PREJUDICE TO THE POSITION OF THE TWO COUNTRIES WITH REGARD TO THE ISSUES OF THE LAW OF THE SEA CONFERENCE." (COMMENT: THE FRG CHARGE HAS INFORMED US THAT TE FOREGOING IS ACCURATE, BUT HAS COMMENTED THAT OTHER PROBLEMS MAY DELAY THE SIGNING OF THE FRG-GOI AGREEMENT FOR SEVERAL MONTHS. END LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 JAKART 09044 070837Z

COMMENT)

4. DIN RAISED A SECOND PROBLEM, THAT OF THE US INSISTANCE ON A SIDE LETTER COVERING THE QUESTION OF NONDISCRIMINATION, WHICH HE SAID HAD NEVER BEEN SETTLED. GOI PREFERENCE IN THIS REGARD IS THAT INSTEAD OF PRESENT WORDING OF PARA 4 OF ARTICLE 24 THE FOLLOWING BE SUBSTITUTED: "IN THIS ARTICLE THE TERM TAXATION MEANS TAXES COVERED BY ARTICLE 2." IN THIS VERSION THERE WOULD BE NO SIDE LETTER. GOI SECOND CHOICE IS TO DELETE PARA 4 ALTOGETHHER AND HAVE A SIDE LETTER. HOWEVER, DIN INDICATED THAT THE WORDING OF THE MOST RECENT US-PROPOSED SIDE LETTER WAS UNAC-CEPTABLE TO THE GOI AND THAT A CONSIDERABLE GAP BETWEEN THE TWO SIDES WOULD NEED TO BE BRIDGED. FOR STARTERS, GOI WOULD PRESS FOR DELETION OF WORDS "TO ALL THE TAXES THAT ARE LEVIED" IN THE FIRST SENTENCE. AMIR SETIA POINTED OUT THAT NONDISCRIMINATION HAD NOT BEEN AN ISSUE IN ANY OF THE TREATIES THE GOI HAD NEGOTIATED WITH OTHER DEVELOPED COUNTRIES.

5. AFTER DIN HAD EXCUSED HIMSELF, EMBOFF ASKED AMIR SETIA ABOUT PAYMENTS TO INDONESIA BY OIL COMPANIES. HE

REPLIED THAT GOI DOES INDEED CONSIDER THEM COMPANY TAXES AND THAT THEY THEREFORE ARE INCLUDED UNDER ARTICLE 2. HE WAS NONCOMMITTAL ABOUT POSSIBILITY OF GOI SPECIFYING THAT CREDIT FOR SUCH PAYMENTS WOULD ACCORD WITH US LAW, SAYING ONLY THAT THE MATTER WOULD NEED STUDY.

6. GOI OFFICIALS WERE AT PAINS TO STRESS THAT THIS CONVERSATION WAS INFORMAL. THEY SPECIFICALLY ASKED IF USG NOW WISHED FORMALLY TO REQUEST THAT TALKS BE REINITIATED. EMBOFF REPLIED THAT DEPT'S TELEGRAM AND EMBOFF'S REQUEST FOR MEETING SHOULD BE INTERPRETED AS AN INDICATION OF THE USG'S DESIRE TO BRING THIS PROBLEM TO AN EARLY CONCLUSION. AT BEGINNING OF DISCUSSION DIN HAD POINTED OUT THAT THREE GOI DEPARTMENTS WERE INVOLVED, LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 JAKART 09044 070837Z

FINANCE, JUSTICE AND FOREIGN AFFAIRS, AND THAT RESPONSIBILITY WAS SHARED EQUALLY AMONG THEM. LATER AMIR SETIA VOLUNTEERED TO ARRANGE MEETING FOR EMBOFF WITH APPROPRIATE FONOFF OFFICIALS BUT EMBOFF ADVISED IT WAS BEST TO WAIT UNTIL DEPT HAD HAD OPPORTUNITY TO ANALYZE NEW INFO PROVIDED BY GOI. DIN ACKNOWLEDGED THAT THE HRUDLES TO BE CLEARED BEFORE THE TREATY COULD BE SIGNED WERE NOT INCONSIDERABLE BUT HE CLEARLY WAS PLEASED AT THE PROSPECT OF ATTEMPTING TO MOVE AHEAD AND EXPRESSED OPTIMISM THAT ACCORD COULD BE REACHED. AMIR SETIA WAS NOTICEABLY LESS ENTHUSIASTIC ABOUT STARTING UP THE US DIALOGUE AT THIS TIME, SINCE IT IS APPARENTLY HE WHO MUST CARRY MOST OF THE DAY-TO -DAY BURDEN, AT A TIME WHEN AT LEAST TWO OTHER TREATIES ARE IN THE FINAL STAGES OF PREPARATION.

7. WE WOULD APPRECIATE THE DEPT'S VIEWS ON THE POSSIBILITY OF OUR ADOPTING THE FRG SOLUTION TO THE PROBLEM OF DEFINITION OF INDONESIA.
NEWSOM

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TAX AGREEMENTS
Control Number: n/a
Copy: SINGLE
Sent Date: 07-Jul-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977JAKART09044
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770240-1332
Format: TEL
From: JAKARTA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770784/aaaacucqg.tel
Line Count: 156
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 2768a66f-c288-dd11-92da-001cc4696bcc
Office: ACTION TRSE
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 STATE 147621
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 11-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1940837
Secure: OPEN
Status: NATIVE
Subject: PROPOSED US-INDONESIAN INCOME TAX TREATY
TAGS: EFIN, ID, US
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/2768a66f-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009